



## **Minutes Tempe Police Public Safety Personnel Retirement System Board Meeting June 6, 2013**

Minutes of the Tempe Police Public Safety Personnel Retirement System Board meeting, held on Thursday, June 6, 2013, 2:00 p.m., Tempe City Hall, third floor conference room, 31 E. 5th Street, Tempe, Arizona.

**Board Members Present:**

Mark W. Mitchell, Mayor  
Joe Brosius  
Chris McCormick  
Jeff McHenry

**Board Members Absent:**

Jim Foley

**City Staff Present:**

Brigitta Kuiper, City Clerk  
Jon O'Connor, Human Resources representative

**Legal Counsel Present:**

Cynthia Kelley

***Chair Mitchell called the meeting to order at 2:04 p.m.***

**ITEM I – Consideration of Meeting Minutes**

Motion by Chris McCormick to approve the executive session minutes of May 2, 2013 and the board meeting minutes of May 2, 2013; second by Joe Brosius. Motion passed unanimously on a voice vote 4-0.

**ITEM II – Public Appearances**

None.

**ITEM III – Motion to Adjourn to Executive Session, if necessary, pursuant to A.R.S. §§ 38-431.03(A)(2), 38-431.03(A)(3), and 38-431.03(A)(4)**

No executive session was held.

**ITEM IV – New Members** (This item was taken out of order)

There were no new applications.

**ITEM V – Purchase of Prior Service**

The Board acknowledged the purchase of 3.786 years of prior service (military) by **Charles Bridges**.

**ITEM VI – Application to Enter Into Deferred Retirement Option Plan (DROP) Program**

Motion by Joe Brosius to approve the application of **John Morel** to enter into the DROP program; second by Jeff McHenry. Motion passed unanimously on a voice vote 4-0.

**ITEM VII – Retirement Applications**

Motion by Joe Brosius to approve the normal retirement from the Deferred Retirement Option Plan (DROP) Program applications of **Michael Hill**, retirement date of June 28, 2013 and of **Donald Yennie**, retirement date of June 30, 2013; second by Chris McCormick. Motion passed unanimously on a voice vote 4-0.

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#### **ITEM VIII – Hearing for Accidental Disability Benefits**

Boardmember McHenry provided a timeline of events in the accidental disability application of **Daniel Kells**, including: Mr. Kells has had oncology issues with his right arm for approximately four years; Mr. Kells was full-duty on October 25, 2012, when, during a training exercise, he had a low-speed motorcycle accident and injured his left shoulder. Mr. Kells had been scheduled to undergo surgery for the injured left shoulder; however, the doctor chose to stop the surgery and go no further until he could confer with the oncologist. In January 2013, Mr. Kells submitted his application for accidental disability benefits. On February 8, 2013, during a routine examination of his right arm, the doctor took a biopsy and test results revealed that the cancer had returned. The doctor recommended that Mr. Kells' right arm be amputated; the surgery to amputate his right arm took place in February 2013. Had Mr. Kells not injured his left shoulder and but had his right arm amputated, he would no longer have been qualified for police duty.

Boardmember McHenry continued his report, and referred the Board to the paperwork from the Independent Medical Examination (IME) performed by Dr. Eric N. Novack. The IME concluded the following:

- Mr. Kells has a physical or medical condition that prevents him from permanently performing a reasonable range of duties of a Police Officer;
- The injury to Mr. Kells occurred while on duty;
- The left shoulder injury was incurred during the performance of his work.

On Form P5-LB-A, question number 6, Dr. Novack indicated in the affirmative that there was a pre-existing condition or injury that played a role in the disability of Mr. Kells. Dr. Novack explained this answer by stating that, in the interest of full disclosure, he was referring to the cancer in Mr. Kells' right arm. Arizona case law, *Parkinson v. Guadalupe Public Safety Retirement Local Board*, has determined that an on-duty injury only has to be one of the reasons that a member applies for a disability retirement.

Boardmember McCormick noted that Mr. Kells had chosen not to have surgery on his left shoulder after his right arm was amputated because of the possibility of something going wrong during the surgery and resulting in a decreased quality of life. The Board determined that it was reasonable for Mr. Kells to decide not to have the surgery on his left shoulder.

Motion by Joe Brosius to approve the accidental disability benefits application of **Daniel Kells**; second by Chris McCormick. Motion passed unanimously on a voice vote 4-0.

Brigitta Kuiper, Local Board Secretary, stated that she would notify Mr. Kells of the approval, and ask him to work with the Human Resources Department to finalize the required paperwork.

#### **ITEM IX – Status Update on Pending Disability Applications**

Boardmember McHenry reported that **Todd Long** underwent an independent medical examination on June 4, 2013; the Board should receive the medical board's report in the next several weeks.

#### **ITEM X – The PSPRS Local Board Newsletter Volume 5, Issue 5**

No discussion.

#### **ITEM XI – FUTURE AGENDA ITEMS**

The Board discussed the July 2013 Board meeting, which was rescheduled to July 8, 2013, due to the Fourth of July holiday. Boardmember Brosius will not be available on July 8, 2013. The Board determined that the July meeting will be canceled unless an application that would affect an individual's benefits is received.

#### **Adjournment**

Motion by Chris McCormick to adjourn; second by Jeff McHenry. Motion passed unanimously on a voice vote 4-0. The meeting adjourned at 2:19 p.m.

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Brigitta M. Kuiper  
Local Board Secretary